

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CHAD WAYNE WHITE,
SPN #02632054,

Plaintiff,

v.

CIVIL ACTION NO. H-14-1129

ALLSTATE INSURANCE COMPANY CEO,

Defendant.

MEMORANDUM OPINION AND ORDER

Chad Wayne White, an inmate of Rusk State Hospital and former Harris County Jail inmate, has filed a civil rights Complaint Under 42 U.S.C. § 1983 (Docket Entry No. 1) against the Chief Executive Officer of the Allstate Insurance Company claiming that the company mailed him a chemical laced letter. White has also filed an Application to Proceed In Forma Pauperis (Docket Entry No. 2). After reviewing the complaint, the court has determined that the application should be granted and that the complaint should be dismissed because it has no legal basis. 28 U.S.C. § 1915(e).

I. Claims and Allegations

White alleges he received a letter in the mail while he was in Nacogdoches, Texas, that contained weapon grade anthrax powder in it. He implies that the letter came from an Allstate office located in Northbrook, Illinois. White provides no other facts in

support of his allegation other than a statement that the letter arrived at the same time that similar letters were delivered to members of the United States Senate. White also fails to assert any harm that he has suffered or the relief he seeks. The court construes the complaint to indicate that he seeks damages and such other relief the court deems just and proper.

II. Analysis

To state a claim under § 1983, "a plaintiff must (1) allege a violation of rights secured by the Constitution or laws of the United States and (2) demonstrate that the alleged deprivation was committed by a person acting under color of state law." James v. Texas Collin County, 535 F.3d 365, 373 (5th Cir. 2008), quoting Moore v. Willis Independent School Dist., 233 F.3d 871, 874 (5th Cir. 2000). There is no cause of action under § 1983 if the plaintiff does not show that the alleged deprivation is fairly attributable to the state or that there was an agreement between state officials and private individuals to violate the plaintiff's rights. See Cinel v. Connick, 15 F.3d 1338, 1343 (5th Cir. 1994). No agreement has been indicated or implied in White's complaint. Allstate Insurance, a private corporation that allegedly sent the tainted letter, is not a state actor and cannot be held liable for a constitutional violation or any violation of a right under federal law. See Morris v. Dillard Dep't Stores, Inc., 277 F.3d 743 (5th Cir. 2001).

White filed an Application to Proceed In Forma Pauperis in this action. The court will grant White permission to proceed as a pauper. An in forma pauperis complaint may be dismissed if it is frivolous. 28 U.S.C. § 1915(e)(2)(B)(I). A complaint is frivolous if it lacks an arguable basis in law. Talib v. Gilley, 138 F.3d 211, 213 (5th Cir. 1998). This complaint is dismissed because it is frivolous.

III. Conclusion

1. The Application to Proceed In Forma Pauperis (Docket Entry No. 2) is **GRANTED**.
2. White shall pay \$350.00, the filing fee, in periodic installments as required by 28 U.S.C. § 1915(b). The agency having custody of White shall deduct 20% from each deposit into White's inmate trust account and forward the amount to the court.
3. The Complaint Under 42 U.S.C. § 1983, Civil Rights Act (Docket Entry No. 1) filed by Chad Wayne White, SPN #02632054, is **DISMISSED** as frivolous. 28 U.S.C. § 1915(e).
4. The Clerk shall provide a copy of this Memorandum Opinion and Order to the parties; the officer in charge of the Inmate Trust Accounts at the Rusk State Hospital, P.O. Box 318, Rusk, Texas 75785; and the Pro Se Clerk for the United States District Court for the Eastern District of Texas, 211 West Ferguson, Tyler, Texas 75702.

SIGNED at Houston, Texas, on this the 8th, day of May, 2014.



SIM LAKE
UNITED STATES DISTRICT JUDGE